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TC

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,225	03/31/2004	Ralph E. Wesinger JR.	NES-014COF	7329
28661	7590	11/09/2006	EXAMINER	
SIERRA PATENT GROUP, LTD. 1657 Hwy 395, Suite 202 Minden, NV 89423			AHN, SANGWOO	
			ART UNIT	PAPER NUMBER
			2166	

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/816,225	WESINGER ET AL.
Examiner	Art Unit	
Sangwoo Ahn	2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 April 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 26-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 26-43 is/are rejected.
- 7) Claim(s) 28,34 and 40 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date  
02162005,05122005,06152005,08162005,01272006,07142006,10252006.

## DETAILED ACTION

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 26 – 43 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 21 – 38 of copending Application No. 10/825973 and claims 15 – 32 of copending Application No. 10/825969. The following table shows the claims in '225 that are rejected by corresponding claims in '973 and '969.

'225	'973	'969
26	21	15
27 - 31	22 - 26	16 - 20
32	27	21

33 - 37	28 - 32	22 - 26
38	33	27
39 - 43	34 - 38	28 - 32

The difference between the claims of '225 and '973 is that, certain limitations including, verifying authority of the user, displaying a page and storing description of user-defined category, found in claims 21, 27 and 33 of '973 are not found in claims 26, 32 and 38 of '225. Official Notice is given that it is well settled that the removal of limitations from a claimed invention, where the remainder of the structure is unaffected, would have been obvious. In addition, "one or more keywords associated with said category" in '225 is analogous to "description of a user-defined category" in '973 since keyword is the description of the category.

The difference between the claims of '225 and '969 is that, certain limitations including, verifying the authority of the user and displaying a page found in claims 15, 21 and 27 of '969 are not found in claims 26, 32 and 38 of '225. Official Notice is given that it is well settled that the removal of limitations from a claimed invention, where the remainder of the structure is unaffected, would have been obvious. In addition, "one or more keywords associated with said category" in '225 is analogous to "new user-defined category" in '969 since keyword defines the category.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Objections***

Claims 28, 34 and 40 are objected to because of the following informalities:

Claims 28, 34 and 40 all recite “non-textual content comprise”. There seems to be a grammatical/typological error in this phrase.

Appropriate corrections are required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 – 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,732,219 issued to Thomas P. Blumer et al (hereinafter “Blumer”) in view of U.S. Patent Number 5,870,552 issued to Linda T. Dozier et al (hereinafter “Dozier”).

Regarding claim 26, Blumer discloses,

A method for creating entries in an on-line database in a user-defined category comprising:

receiving a request from a user to create an entry in an on-line database (Figure 4 element 122, column 14 lines 55 – 57, et seq.);

creating an entry in the on-line database (Figure 4 element 140, et seq.).

Blumer does not explicitly disclose receiving a category defined by said user to said entry and one or more keywords associated with said category, and associating said entry with said category.

However, Dozier discloses receiving a category defined by said user to said entry and one or more keywords associated with said category, and associating said entry with said category (Figure 10b, column 15 lines 50 – 57, et seq.). At the time of the present invention, it would have been obvious to a person of ordinary skill in the data processing art to combine the two references because Dozier's user-defined category would have enabled Blumer's overall system to support user-defined classification/categorization of documents and content available to users in an intelligently organized fashion that facilitate uniform, content-driven search and access.

Regarding claim 27, Dozier discloses that said entry includes non-textual content (Figure 7, et seq.).

Regarding claim 28, Dozier discloses that said non-textual content comprise graphics (Figure 7, et seq.).

Regarding claim 29, Dozier discloses the act of allowing said user to index said entry in said on-line database with at least one user-defined keyword (Figure 10b, column 15 lines 50 – 57, column 16 lines 42 – 44, et seq.).

Regarding claim 30, Dozier discloses the act of allowing said user to add a URL to said entry in said on-line database (Figures 8a – 8b, et seq.).

Regarding claim 31, Dozier discloses the act of allowing said user to add a hyperlink to said entry in said on-line database (Figures 8a – 8b, column 14 line 25 – 27, et seq.).

Claims 32 – 37 are essentially the same as claims 21 – 26 except they set forth the limitations as “an apparatus” rather than “a method”, therefore rejected based on the same rationale discussed in claims 21 – 26 rejections.

Claims 38 – 43 are essentially the same as claims 21 – 26 except they set forth the limitations as “a web server” rather than “a method”, therefore rejected based on the same rationale discussed in claims 21 – 26 rejections.

#### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sangwoo Ahn whose telephone number is (571) 272-5626. The examiner can normally be reached on M-F 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571)272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Sangwoo Ahn  
Patent Examiner  
AU 2166

11/6/2006 SW

  
HOSAIN ALAM  
SUPERVISORY PATENT EXAMINER